

DRUG TESTING

WHAT IS DRUG TESTING?

Drug testing is one way you can protect your workplace from the negative effects of alcohol and other drug abuse. A drug testing program can deter people from coming to work unfit for duty and also discourage alcohol and other drug abusers from joining your organization in the first place.

Some employers believe that a drug-free workplace program and drug testing are one and the same; however, drug testing is only one element of a program. Drug testing may be appropriate for some organizations and not others. In some cases drug testing is required; in others, it is optional (see Employer Tip Sheet #1 and #2). When drug testing is optional, the decision about whether or not to test will depend on a variety of factors such as the cost, appropriateness, and feasibility.

“Drug testing was a big decision for me, and I had a lot of questions: Is it legal to drug test my employees? How should I go about informing my workers that we’re implementing this new policy and program? How much will it cost? What do I do if an employee tests positive? Do I have to offer treatment? Can we afford to help employees with drug problems? Fortunately, I knew another business owner in my community who had recently started a testing program. I called her for advice, and she was able to give me some resources to get started.”

Owner, manufacturing company

WHY DRUG TEST?

When considering a drug testing program, the first question to ask is, “Am I required to drug test some or all of my employees?” If not, then ask, “Are there other reasons I should consider drug testing?” Below are some of the most frequent reasons employers give for having a drug testing program:

- To comply with Federal regulations, e.g., the Department of Transportation, Department of Defense, Nuclear Regulatory Commission, and Department of Energy
- To comply with customer or contract requirements
- To comply with insurance carrier requirements
- To match other employer efforts, and to minimize the chance of hiring employees who may be users or abusers
- To reinforce the company position on “no drug use”
- To identify current users and abusers and refer them for assistance
- To establish grounds for discipline or firing
- To improve safety
- To convince “casual users” that the cost of using is too high
- To deter “recreational” drug use that could lead to addiction
- To reduce the costs of alcohol and other drug abuse in the workplace
- To give recovering users another reason to stay sober (relapse prevention).

WHEN SHOULD YOU DRUG TEST?

Below are examples of situations in which drug testing might be appropriate or necessary:

Pre-Employment Tests. Offering employment only after a negative drug test result.

Goal: To decrease the chance of hiring someone who is currently using or abusing drugs.

Pre-Promotion Tests. Testing employees prior to promotion within the organization.

Goal: To decrease the chance of promoting someone who is currently using or abusing drugs.

Annual Physical Tests. Testing employees for alcohol and other drug use as part of their annual physical.

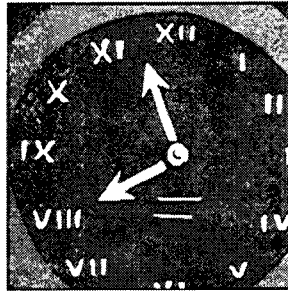
Goal: To identify current users and abusers so they can be referred for assistance and/or disciplinary action.

Reasonable Suspicion and For Cause Tests. Testing employees who show obvious signs of being unfit for duty (For Cause) or have documented patterns of unsafe work behavior (Reasonable Suspicion).

Goal: To protect the safety and well-being of the employee and other coworkers and to provide the opportunity for rehabilitation if the employee tests positive.

Random Tests. Testing a selected group of employees at random and unpredictable times. Most commonly used in safety- and security-sensitive positions.

Goal: To discourage use and abuse by making testing unpredictable, and to identify current users and abusers so they can be referred for assistance and for disciplinary action, if needed.



Post-Accident Tests. Testing employees who are involved in an accident or unsafe practice incident to help determine whether alcohol or other drug use was a factor.

Goal: To protect the safety of the employees, and to identify and refer to treatment those persons whose alcohol or other drug use threatens the safety of the workplace.

Treatment Followup Tests. Periodically testing employees who return to work after participating in an alcohol or other drug rehabilitation program.

Goal: To encourage and ensure that employees remain drug-free after they have completed the first stages of treatment.

HOW TO IMPLEMENT A DRUG TESTING PROGRAM

An effective drug testing program needs a drug testing policy. This may be part of the organization's drug-free workplace policy, or it may be a separate document. It

should be distributed to all employees. The best protection against future legal challenges is to write a policy that is as detailed and specific as possible.

WHAT SHOULD A DRUG TESTING POLICY INCLUDE?

The Drugs You Are Testing For

Laboratories can test for a wide variety of drugs. Generally, employers test only for those that are most commonly used and abused: cocaine, phencyclidine (PCP), opiates, amphetamines, and cannabinoids (marijuana). Some employers also test for alcohol.

Who Will Be Tested and Under What Conditions

While the overall drug-free workplace policy should apply to everyone in an organization, the drug testing policy may apply only to some employees. Therefore, the testing policy should clearly identify the employee positions included in the testing program. The policy should also indicate under what circumstances employees in each position will be tested.

Employers who are required to drug test by one or more Federal agencies should refer to the specific regulations to determine the types of testing that are

required (i.e., random, post-accident, etc.). Employers whose employees are members of a union or collective bargaining unit should know that unless drug testing is required by law or regulation, it will likely be a mandatory subject of bargaining.

The Consequences of Testing Positive or Refusing To Take a Test

Before beginning a drug testing program, carefully consider how you will handle a positive drug test result. The actions that will be taken in response to a positive drug test should be clearly detailed in the written policy. Although there are many options, common responses include referring the employee for treatment, disciplinary measures, or discharge.

Examples: If an applicant tests positive, she or he is usually denied employment. Some employers will allow the applicant to reapply after a period of time (e.g., 3 months). If an employee tests positive as part

Drug Testing Methods

Several different methods of drug testing are available. Each has its advantages and disadvantages.

Urine Test:

The most common form of drug testing is to analyze a sample of urine for traces of drugs. A positive test result only indicates that a drug was used sometime in the recent past; it does not tell whether or not the person was under the influence when giving the sample.

For detecting alcohol, a urine test is accurate but is not used because it correlates poorly with blood levels when usual collection procedures are used.

Blood Test:

A blood test measures the actual amount of alcohol or other drugs in the blood at the time of the test. Unlike the urine test, the results tell

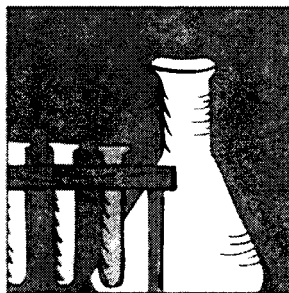
whether or not the person was under the influence at the time the test was done.

Saliva and Hair Tests:

Researchers have begun studying the testing of hair and saliva to detect alcohol and other drug use. Early results suggest that testing saliva may be a valid testing method. The accuracy, reliability, and interpretation of hair testing have not yet been determined.

Breath-Alcohol Test:

A breath test is currently the most common method of testing for alcohol. The results tell if the individual is under the influence of alcohol at the time the breath sample is taken. Alcohol stays in the body for a relatively short period of time; therefore, unless a person is under the influence at the time the specimen is collected, a breath test for alcohol will not detect abuse off the job (which can affect on-the-job performance).



of a post-accident or reasonable suspicion test, the first response should be to remove that person from his or her position, especially if the job is safety-related.

An employee who tests positive may be given paid or unpaid leave and referred to the employee assistance program (EAP) or other substance abuse assessment service, if available. Some employers automatically discharge anyone who tests positive. Usually, refusing to provide a sample for testing or attempting to tamper with, contaminate, or switch a sample is considered grounds for discipline or discharge.

It is important to have guidelines in place that explain the organization's procedures for appeal should an employee test positive. The appeal process will vary depending on the nature of the work done, State laws, contractual requirements, etc. It is essential, however, to provide written guidelines for how such situations will be handled. See Tip Sheet #10 for resources to help you determine the most appropriate process.

Who Pays for the Drug Test

Normally, employers pay for drug tests. Sometimes employers require the employee to pay for the test, and if the results are negative, the employer reimburses the employee. If employees are expected to pay, this should be stated in the written policy.

The cost of a drug test at a DHHS-certified laboratory will vary depending on the services provided and the geographic location. While the cost may be slightly higher than with a noncertified laboratory, the added security and accuracy will protect you in a court of law should a test result be challenged. Contact **CSAP's Workplace Helpline at 1-800-WORKPLACE** to find a DHHS-certified laboratory in your area.

Drug Testing Procedures

A clear written description of the procedures that will be used for drug testing should be included either in the drug testing policy or in a separate document. For organizations doing contract work, the procedures may vary from one contract to the next and would best be outlined in a separate document. Below are examples of the type of information to include:

- Where employees will give their samples (name and phone number of the collection site)
- Where the samples will be tested (name and phone number of the testing laboratory)

- How results will be reported (will the laboratory contact the individual, or will a designated person in the company tell the employee?)

Employers will also want to know these terms:

- **Chain of Custody.** A chain of custody form is used to document the handling and storage of a urine specimen from the time it is collected until the time of disposal. This form links the individual to the urine sample. It is written proof of everything that happens to the specimen while at the collection site and the laboratory.
- **Confirmation Tests.** The first test of a urine sample is called an **initial test**. This test is fairly accurate and reliable but can also detect over-the-counter medications. Therefore, if the initial test is positive, a second test (by gas chromatography/mass spectrometry, or GC/MS) should be done on the sample immediately. This confirmatory test is highly accurate and will rule out any false positives (mistakes made) on the first test.
- **DHHS Cut-Off Levels.** A cut-off level is a value that is used to determine whether a drug test is positive or negative. Many employers use the cut-off levels established by the Department of Health and Human Services. These cut-off levels have been proven accurate and reliable, as well as defensible in a court of law.

Department of Health and Human Services Cut-Off Levels

as of April 1993

	Initial	Confirmatory
Cocaine	300 ng/ml	150 ng/ml
Phencyclidine	25 ng/ml	25 ng/ml
Opiates	300 ng/ml	300 ng/ml
Amphetamines	1,000 ng/ml	500 ng/ml
Cannabinoids	100 ng/ml	15 ng/ml

- **Medical Review Officer (MRO).** Although not always required, an MRO is an important part of an effective drug testing program. An MRO is a licensed medical doctor who has special training in substance abuse. Using an MRO helps to protect both the employer and the employees. For

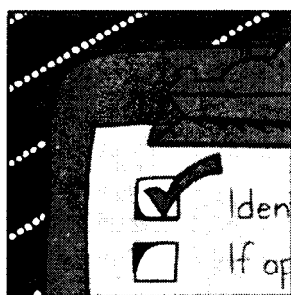
example, if a drug test is positive, the MRO reviews the results, makes sure the chain of custody procedures were followed, and contacts the employee to make sure that there are no medical or other legitimate reasons for the positive result. For example, some prescription medications can cause

a positive test result. If this is the case, and if a doctor prescribed the medicine, the test is reported as negative. Otherwise, the MRO reports the positive test result to the organization. Only after the MRO has reached his or her final conclusion does the MRO report the result to the employer.

WHAT ABOUT LEGAL CHALLENGES?

Many States have drug testing laws that determine what an employer can and cannot do. Resources are available to help you find out if there are any State drug testing laws you must comply with. An attorney with experience in labor and employment issues, or a professional consultant specializing in workplace drug testing can help ensure that the testing rules and procedures as outlined in your policy are in compliance with State regulations.

Avoid legal problems by using procedure\ that are clear, fair, consistent, and documented in a written policy. Because employment decisions based on a test result can be contested, it will be to your advantage to have a detailed policy and to understand the protections that are available to you.



DRUG TESTING CHECKLIST

- _____ Identify any Federal or State laws with which you must comply. (Call your State's attorney general or talk with legal counsel.)
- _____ If applicable, talk with union officials.
- _____ Identify and contact a DHHS-certified laboratory to set up a drug testing contract. Visit the laboratory if possible.
- _____ Identify and contact a specimen collection site to set up a drug testing contract. (Ask the laboratory for suggestions.) Visit the site if possible.
- _____ Contract with a medical review officer. Call CSAP's Workplace Helpline at 1-800-WORKPLACE to locate qualified MROs.
- _____ Develop a system to protect the confidentiality of employee drug testing records. Call CSAP's Workplace Helpline for assistance.
- _____ Designate the person who will receive the test results from the lab, and make sure he or she is aware of confidentiality issues. (See the Supervisor's Guide for more information about confidentiality.)
- _____ Write a clear, consistent, and fair policy incorporating suggestions from this tip sheet. Call CSAP's Workplace Helpline if you need assistance.
- _____ Have your policy reviewed by legal counsel.
- _____ Notify employees 30 to 60 days before the testing program goes into effect. (See Employer Tip Sheet #6 for the benefits of employee education about drug testing and other drug-free workplace program components.)
- _____ Communicate to employees that you will abide by the policy also.